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09/740,040	12/20/2000	James M. Zombek	003636.0100	6195

7590 06/19/2009  
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EXAMINER
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GOLD, AVI M

ART UNIT	PAPER NUMBER
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2457

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/740,040	<b>Applicant(s)</b> ZOMBEK ET AL.	
	<b>Examiner</b> AVI GOLD	<b>Art Unit</b> 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/24/09, 5/5/09, 6/8/09</u> .                                 | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to the amendment filed on May 5, 2009. Claims 1, 48, and 55 were amended. Claims 1 and 3-61 are pending.

#### ***Response to Amendment***

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 55 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 55 teaches a messaging system, a client application, and a server application, which can be implemented on software; and the specification does not point to a hardware or other statutory embodiment for the system. The idea that the system can be embodied fully in software makes the system software per se and non-statutory.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-10, 15, and 17-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleeson et al., U.S. Patent No. 5,446,736, in view of Dunlop et al., U.S. Patent No. 6,721,872, further in view of Schuster et al., U.S. Patent No. 6,785,261.

Gleeson teaches the invention substantially as claimed including an apparatus and methods for connecting nodes to wireless networks using standard network protocols (see abstract).

As to claims 1, 48, and 55, Gleeson teaches a messaging system, messaging method, comprising:

a client device to store a client application to be executed by said client device (col. 6, lines 4-41, fig. 1, Gleeson discloses PCs communicating with the network switch);

a server to store a server application to be executed by said server (col. 6, lines 4-41, fig. 1, Gleeson discloses an enterprise network server);

a plurality of networks to communicate messages between said client device and said server; and to support one or more wireless network protocols (col. 3, lines 30-36, col. 6, lines 4-41, fig. 1, Gleeson discloses wireless WANs used for the PCs to communicate with the server using any one of a number of conventional protocols);

a communicator to communicate a message between said client application and said server application through said protocol gateway with said underlying wireless network protocol (col. 3, lines 30-36, col. 6, lines 4-41).

Gleeson fails to teach the limitation further including a protocol gateway adaptively arranged between at least two of said plurality of said networks.

However, Dunlop teaches an interface between a host device and a communication or information network (see abstract). Dunlop teaches the use of a reconfigurable network interface architecture including a device to support/encapsulate multiple network operating protocols and an OSI protocol stack (col. 3, lines 14-34, col. 4, lines 5-15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson in view of Dunlop to use a protocol gateway adaptively arranged between at least two of said plurality of said networks. One would be motivated to do so because it is efficient for communication to have a device that supports different protocols (col. 2, lines 13-19).

Gleeson also fails to teach the limitation further including segmenting a message communicated into multiple segments, and to encapsulate said multiple segments with a segment header into an encapsulated message.

However, Schuster teaches a method and apparatus for facilitating correction of data loss in a data transmission system (see abstract). Schuster teaches a message divided into data packets and those packets including a packet header that encapsulates them (col. 1 line 63 – col. 2, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson in view of Schuster to segment a message communicated into multiple segments, and to encapsulate said multiple segments with a segment

header into an encapsulated message. One would be motivated to do so because it minimizes transmission latency.

Regarding claims 3, 50, and 57, Gleeson teaches the messaging system and method according to claims 1, 48, and 55, wherein said underlying wireless network protocol is comprised of a protocol stack that comprises:

- an application layer mapped to layer 7 of said OSI model;
- a network layer mapped to layer 3 of said OSI model;
- a data link layer mapped to layer 2 of said OSI model; and
- a physical layer mapped to layer 1 of said OSI model (col. 6, lines 57-61, fig. 2, 5, 6, Gleeson discloses a protocol stack of layers used).

Regarding claims 4, 41, 51, and 58, Gleeson teaches the messaging system and method according to claims 3, 23, 50, and 57, wherein:

- said application layer comprises an interface between a client application and a simple network transport layer (SNTL); and

- said client application is adapted to send and receive messages across said plurality of wireless networks without having any information of a communication implementation (col. 7, 8; fig. 5, 6).

Regarding claims 5, 52, and 59, Gleeson teaches the messaging system and method according to claims 4, 41, and 58, wherein:

said client application is selected from a group consisting of one or more e-mail applications, one or more file transfer applications, and a plurality of end user applications (col. 11, line 43 - col. 12, line 55, Gleeson discloses client software).

Regarding claims 6, 53, and 60, Gleeson teaches the messaging system and method according to claims 4, 50, and 57, wherein:

said network layer comprises means for providing network protocol layer functionality and hiding the details of said functionality from a simple network transport layer (SNTL) (fig. 5, 6).

Regarding claims 7, 54, and 61, Gleeson teaches the messaging system and method according to claims 6, 53, and 60, wherein:

said network layer comprises an Internet Protocol (IP) (fig. 5, 6; col. 11, lines 44-58).

Regarding claim 8, Gleeson teaches the messaging system according to claim 3, wherein:

said data link layer and said physical layer are together adapted to comply with a public switch telephone network protocol (col. 10, lines 20-25, Gleeson discloses the use of various networks).

Regarding claim 9, Gleeson teaches the messaging system according to claim 3, wherein:

said data link layer and said physical layer are together adapted to comply with a cellular digital packet data protocol (col. 10, lines 20-25).

Regarding claim 10, Gleeson teaches the messaging system according to claim 3, wherein:

said data link layer and said physical layer are together adapted to comply with a Mobitex protocol (col. 10, lines 20-25).

Regarding claim 15, Gleeson teaches the messaging system according to claim 3, wherein:

said data link layer and said physical layer are adapted to comply with said selected wireless network protocol (col. 10, lines 20-25).

Regarding claim 17, Gleeson teaches the messaging system according to claim 4, wherein:

said SNTL includes a connectionless UDP-like transport protocol having substantially all features and advantages of TCP (fig. 5, 6).

Regarding claim 18, Gleeson teaches the messaging system according to claim 17, wherein:



said features are selected from a group comprising message segmentation, message segment reassembly, message retries, and message duplication (fig. 12A – fig. 15).

Regarding claim 19, Gleeson teaches the messaging system according to claim 17, wherein:

said SNTL includes a transport header having a preselected width (fig. 12A – fig. 15).

Regarding claim 20, Gleeson teaches the messaging system according to claim 19, wherein:

said preselected width comprises between four to six bytes (fig. 12A – fig. 15).

Regarding claim 21, Gleeson teaches the messaging system according to claim 19, further comprising:

a single segment message header (fig. 12A – fig. 15).

Regarding claim 22, Gleeson teaches the messaging system according to claim 19, further comprising:

a multiple segment message header (fig. 12A – fig. 15).

Regarding claim 23, Gleeson teaches the messaging system according to claim 19, wherein said transport header further comprises:

- a first field adapted to indicate a version number of a segment header (pg. 47, Gleeson discloses a ver field);

- a second field adapted to indicate a message identification value, adapted to discard segment/message duplications and to match acknowledgments with messages;

- a third field adapted to indicate protocol information;

- a fourth field adapted to indicate a total number of bytes contained in a message segment to be sent including said segment header; and

- a fifth field adapted to indicate a number of each said message segment (fig. 12A – fig. 15).

Regarding claim 24, Gleeson teaches the messaging system according to claim 23, wherein:

- said first field comprises two bits (fig. 12A – fig. 15).

Regarding claim 25, Gleeson teaches the messaging system according to claim 23, wherein:

- said first field comprises bit 0 and bit 1 of a first word in said segment header (fig. 12A – fig. 15).

Regarding claim 26, Gleeson teaches the messaging system according to claim 23, wherein:

said first field comprises a value of from 0 to 3 (fig. 12A – fig. 15).

Regarding claim 27, Gleeson teaches the messaging system according to claim 23, wherein:

said second field comprises thirteen bits (fig. 12A – fig. 15).

Regarding claim 28, Gleeson teaches the messaging system according to claim 23, wherein:

said second field comprises bits 2 through 14 of a first word in said segment header (fig. 12A – fig. 15).

Regarding claim 29, Gleeson teaches the messaging system according to claim 23, wherein:

said second field comprises a value of from 0 to 8,192 (fig. 12A – fig. 15).

Regarding claim 30, Gleeson teaches the messaging system according to claim 23, wherein:

said third field comprises five bits (fig. 12A – fig. 15).

Regarding claim 31, Gleeson teaches the messaging system according to claim 23, wherein:

said third field comprises bits 15 through 19 of a first word in said segment header (fig. 12A – fig. 15).

Regarding claim 32, Gleeson teaches the messaging system according to claim 23, wherein:

bit 19 of said third field comprises a value indicative of message segmentation (fig. 12A – fig. 15).

Regarding claim 33, Gleeson teaches the messaging system according to claim 32, wherein:

bit 19 comprises a value of 0 when said message is not segmented (fig. 12A – fig. 15).

Regarding claim 34, Gleeson teaches the messaging system according to claim 32, wherein:

bit 19 comprises a value of 1 when said message is segmented (fig. 12A – fig. 15).

Regarding claim 35, Gleeson teaches the messaging system according to claim 23, wherein:

bit 16 of said third field comprises a value indicative of a message type (fig. 12A – fig. 15).

Regarding claim 36, Gleeson teaches the messaging system according to claim 35, wherein:

bit 16 comprises a value of 0 when said message includes a positive acknowledgment (fig. 12A – fig. 15).

Regarding claim 37, Gleeson teaches the messaging system according to claim 35, wherein:

bit 16 comprises a value of 1 when said message includes a negative acknowledgment (fig. 12A – fig. 15).

Regarding claim 38, Gleeson teaches the messaging system according to claim 23, wherein:

bit 15 of said third field comprises a message indicator (fig. 12A – fig. 15).

Regarding claim 39, Gleeson teaches the messaging system according to claim 38, wherein:

bit 15 comprises a value of 0 when said message is an application message (fig. 12A – fig. 15).

Regarding claim 40, Gleeson teaches the messaging system according to claim 38, wherein:

bit 15 comprises a value of 1 when said message is a system message (fig. 12A – fig. 15).

Regarding claim 41, Gleeson teaches the messaging system according to claim 23, wherein:

said fourth field comprises twelve bits (fig. 12A – fig. 15).

Regarding claim 42, Gleeson teaches the messaging system according to claim 41, wherein:

said fourth field comprises bits 20 through 31 of a second word in said segment header (fig. 12A – fig. 15).

Regarding claim 43, Gleeson teaches the messaging system according to claim 42, wherein:

said fourth field comprises a value of from 4 to 4,096 (fig. 12A – fig. 15).

Regarding claim 44, Gleeson teaches the messaging system according to claim 23, wherein:

said fifth field comprises eight bits (fig. 12A – fig. 15).

Regarding claim 45, Gleeson teaches the messaging system according to claim 44, wherein:

said fifth field comprises bits 0 through 7 of a third word in said segment header (fig. 12A – fig. 15).

Regarding claim 46, Gleeson teaches the messaging system according to claim 44, wherein:

said fifth field comprises a value of from 2 to 255 (fig. 12A – fig. 15).

Regarding claim 47, Gleeson teaches the messaging system according to claim 23, wherein:

said fifth field is adapted to re-order a plurality of message segments into a single complete message (fig. 12A – fig. 15).

Regarding claims 49, and 56, Gleeson teaches the messaging system and method according to claims 48, and 55, wherein:

a simple network transport layer (SNTL) that maps to layer 4 of said OSI model (fig. 5, 6).

4. Claims 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleeson, Dunlop, and Schuster further in view of Meyer et al., U.S. Patent No. 6,778,099.

Gleeson teaches the invention substantially as claimed including an apparatus and methods for connecting nodes to wireless networks using standard network protocols. Dunlop teaches the invention substantially as claimed including an interface between a host device and a communication or information network. Schuster teaches the invention substantially as claimed including a method and apparatus for facilitating correction of data loss in a data transmission system.

As to claim 11, Gleeson, Dunlop, and Schuster teach the method of claim 3.

Gleeson, Dunlop, and Schuster fail to teach the limitation further including wherein said data link layer and said physical layer are together adapted to comply with a RIM protocol.

However, Meyer teaches automatic equipment and systems for remote reading of utility meters via a wireless area network communications module (see abstract). Meyer teaches the use of a RIM protocol (col. 6, lines 17-20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson, Dunlop, and Schuster in view of Meyer to use a RIM protocol. One would be motivated to do so because it allows for the use of more protocols to transfer data.

As to claim 12, Gleeson, Dunlop, and Schuster teach the method of claim 3.



Gleeson, Dunlop, and Schuster fail to teach the limitation further including wherein said data link layer and said physical layer are together adapted to comply with an ARDIS protocol.

However, Meyer teaches the use of an ARDIS protocol (col. 6, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson, Dunlop, and Schuster in view of Meyer to use an ARDIS protocol.

As to claim 13, Gleeson, Dunlop, and Schuster teach the method of claim 3.

Gleeson, Dunlop, and Schuster fail to teach the limitation further including wherein said data link layer and said physical layer are adapted to comply with a GPRS protocol.

However, Meyer teaches the use of other packet wireless data networks and packets transmitted and received over a radio modem (col. 6, lines 1-5, col. 7, lines 21-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson, Dunlop, and Schuster in view of Meyer to use a GPRS protocol.

As to claim 14, Gleeson, Dunlop, and Schuster teach the method of claim 3.

Gleeson, Dunlop, and Schuster fail to teach the limitation further including wherein said data link layer and said physical layer are adapted to comply with a GSM protocol.

However, Meyer teaches the use of a GSM protocol (col. 6, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson, Dunlop, and Schuster in view of Meyer to use a GSM protocol.

As to claim 16, Gleeson, Dunlop, and Schuster teach the method of claim 3.

Gleeson, Dunlop, and Schuster fail to teach the limitation further including an ARDIS protocol, a RIM protocol, a GPRS protocol, and a GSM protocol.

However, Meyer teaches the use of an ARDIS protocol, a RIM protocol, a GPRS protocol, and a GSM protocol (col. 6, lines 1-5, 17-20; col. 7, lines 21-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gleeson, Dunlop, and Schuster in view of Meyer to use an ARDIS protocol, a RIM protocol, a GPRS protocol, and a GSM protocol.

### ***Response to Arguments***

5. Applicant's arguments with respect to encapsulating multiple segments with a segment header into an encapsulated message in claims 48 and 55 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments filed May 5, 2009, regarding claims 1 and 3-61 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., segment a message that already is communicated with an underlying wireless network protocol) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The applicant continues to argue each reference separately ignoring the combination of references and what is relied upon in each reference.

Claim 55 is still rejected under 101 as the client application is not shown to be stored on the client device, as in claim 1, thus allowing the claim to be fully embodied in software.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,304,564 to Monin et al.

U.S. Pat. No. 6,718,384 to Linzy

U.S. Pat. No. 6,628,965 to LaRosa et al.

U.S. Pat. No. 6,721,779 to Maffeis

U.S. Pat. No. 6,874,018 to Wu

U.S. Pat. No. 5,970,059 to Ahopelto et al.

U.S. Pat. No. 5,673,322 to Pepe et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/A. G./  
Examiner, Art Unit 2457

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